

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>ERIC PETERSON,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Civil Action No. 07-56 Erie</b>
	)	
<b>H.J. MARBERRY, Warden, FCI</b>	)	
<b>McKean,</b>	)	
	)	
<b>Defendant.</b>	)	

**MEMORANDUM ORDER**

Plaintiff's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 was received by the Clerk of Court on March 28, 2008, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on December 4, 2008, recommended that the Petitioner's Petition for Writ of Habeas Corpus be granted in part and denied in part. Specifically, the report and recommendation recommended that this Court find that the Bureau of Prisons had erred in calculating the date upon which Petitioner's federal sentence commenced and that Petitioner should receive credit for time served from June 27, 1996 until May 16, 1997. The report and recommendation further recommended that Petitioner was not entitled to credit against his sentence for the time he served in the state detention facility from May 16, 1997 until December 8, 2005.

The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail. No objections were filed by either party. To

the contrary, Defendant filed a "Notice to Court of Recomputation of Petitioner's Sentence" [Doc. 13] which explained that "[a]fter review of the Report and Recommendation issued on December 4, 2008, the Bureau of Prisons recomputed Petitioner's sentence in accordance with the Report" and "that all of the time [Petitioner] served in official detention in Bureau of Prisons custody from June 27, 1996 through May 16, 1997, as a result of an erroneous federal designation, has been credited against his federal sentence." Notice, ¶¶ 2-3.

After de novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 5th day of January, 2009, it is HEREBY ORDERED, ADJUDGED AND DECREED that the report and recommendation of Magistrate Judge Baxter, dated December 4, 2008, is adopted as the Opinion of the Court.

It is further hereby ORDERED, ADJUDGED AND DECREED that Petitioner's Petition for Writ of Habeas Corpus [Doc. #3] is GRANTED to the extent Petitioner contends that he was in federal custody from June 27, 1996 until May 16, 1997 and is otherwise DENIED.

It is further hereby ORDERED, ADJUDGED AND DECREED that the Bureau of Prisons shall credit Petitioner's federal sentence with time served from June 27, 1996 to May 16, 1997.

The Clerk of Court shall mark this case CLOSED.

  
MAURICE B. COHILL, JR.  
Senior District Court Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_